

## REMARKS

Claims 1 through 21 are pending in the application. Claims 1, 10, 18 and 21 are the independent claims. Claims 1, 5 through 7, 13 through 15 and 21 have been amended. Claims 22 and 23 have been withdrawn without prejudice or disclaimer of the subject matter therein. No new matter has been added.

The Examiner has objected to claim 18 because of a minor informality.

Claims 1 through 7, 10 through 15, and 18 through 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,872,769 to Caldara et al. in view of Fichou et al. U.S. Patent No. 5,790,522. Applicants respectfully request that the above-identified application be reconsidered in view of the above amendments and following remarks.

Applicants respectfully thank the Examiner for the allowable subject matter indicated in claims 8, 9, 16 and 17, if rewritten in independent form.

### Claim Objections

Claim 18 is objected to because the duplicated term “and one or more control channels” of line 3 should be deleted. Claim 18 has been amended in accordance with the Examiner’s instruction. Therefore, the objection is believed to be overcome and the Examiner is respectfully requested to withdraw the objection.

### The 35 U.S.C. § 103(a) Rejection

Claims 1 through 7, 10 through 15 and 18 through 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Caldara et al., U.S. Patent No. 5,872,769 in view of Fichou et al., U.S. Patent No. 5,790,522. This rejection is respectfully traversed.

Regarding claims 1, 10 and 21, the Examiner states that the Caldara et al. patent discloses a network comprising:

“A first node/host system 20 has a first plurality of FIFO queues arranged for high priority to low priority data movement operations (Fig. 1, 6; col. 9, lines 56, and 57);

A second node/remote system 22 has second plurality of FIFO queues arranged for high priority to low priority data movement operations connected to the first node by control and data channels (Fig. 1, 6: col. 5);

I/O transactions are accomplished via the data switch 13, and BA 12 for moving commands and data between the two nodes (Fig. 1).” (See Office Action page 2, paragraph 3.)

The Examiner further states that the Caldara et al. patent fails to disclose that:

“the first and second pluralities of queues are arranged in correspondence with each other. Fichou et al. disclose a switching system in figure 4 wherein the first plurality of queues in the receive adapter (first node) are arranged in correspondence with the second plurality of queues in the transmit adapter (second node). A skilled artisan would have been motivated to modify the first and second pluralities of queues in Caldara et al so that they are corresponding to each other in order to reduce jitter and delay as taught by Fichou et al (Col. 6, lines 49, and 50). Therefore it would have been obvious to a person having ordinary skill in the art by the time the invention was made to have the first and second pluralities of queues arranged in correspondence with each other in Caldara et al system.”[sic] (See Office Action page 3, first paragraph.)

Contrary to the Examiner’s assertion, although Applicants do not disagree with the Examiner’s characterization of the Fichou et al. patent, Applicants strongly disagree with the assertion that it would have been obvious “to have first and second pluralities of queues arranged in correspondence with each other in [the] Caldara et al. system.” (See Office Action at page 3.) The Examiner’s assertion is incorrect since the proposed modification would change the principle of operation of the system in the Caldara et al. patent. It is well settled that:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959.) (... The court reversed the

rejection holding the “suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.” 270 F.2d at 813, 123 USPQ at 352). (See MPEP §2143.01)

The Caldara et al. patent discloses a plurality of input nodes, each with a plurality of input queues, connected to a plurality of output nodes, each with a plurality of output queues. (See FIG. 6) However, as admitted by the Examiner, the pluralities of input and output queues are not arranged in correspondence. (See Office Action at page 3.) In addition, each input node receives a separate stream of data cells, en queues each data cell on an input queue at the TSPP in the input node and then transmits the data cells to one or more output queues. (See FIGs. 1, 2 and 6; column 4, lines 28 through column 5, line 2.) The Caldara et al. patent also discloses that control of the transfer between the input and output queues occurs in the band width arbitor, which lies between the input and output queues with the switch fabric. (See column 4, lines 28 through 49; column 5, lines 14 through 34; and column 12, lines 62 through 65.) Nothing in the Caldara et al. patent teaches or suggests that the plurality of input nodes are capable of communicating with each other or transferring received data cells between input nodes, a capability that would be required for the Caldara et al. and Fichou et al. patent combination asserted by the Examiner to work without changing the principle of operation of the Caldara et al. patent.

However, modifying the Caldara et al. patent first and second pluralities of queues to correspond to each other would result in a fundamental change in the operation of the Caldara et al. system. Specifically, the Caldara et al. system would have to be modified to place the control of the transfer of the received data cells at the input nodes to be

arranged in queues in correspondence with the output queues. This would be necessary to implement the preferred lists and dynamic lists at the input and output queues necessary for scheduling the allocated traffic and the dynamic traffic. (See column 12, lines 31 through 65.)

Therefore, since the proposed Caldara et al. patent and Fichou et al. patent combination would change the principle of operation of the Caldara et al. patent and would also “require a substantial reconstruction and redesign of the elements shown in [the Caldara et al. patent.]” (270 F.2d 813, 123 USPQ at 352.), the Examiner has failed to establish a *prima facie* case of obviousness, and withdrawal of the Section 103 rejection of the independent claims 1 and 10 and the claims depending therefrom, respectively, is respectfully requested.

Regarding claim 21, claim 21 has been amended to contain similar recitations as in claims 1 and 10 to overcome the rejection. Therefore, for at least those reasons given above for claims 1 and 10, the Section 103 rejection is believed to be overcome and withdrawal of the Section 103 rejection of claim 21 is respectfully requested.

Regarding claim 18, claim 18 has been amended to contain similar recitations as in claims 1 and 10 to overcome the rejection. Therefore, for at least those reasons given above for claims 1 and 10, the Section 103 rejection is believed to be overcome and withdrawal of the Section 103 rejection of claim 18 is respectfully requested.

Applicants believe all pending claims to be allowable and, accordingly, issuance of a notice of allowance for claims 1 through 21 is respectfully requested.

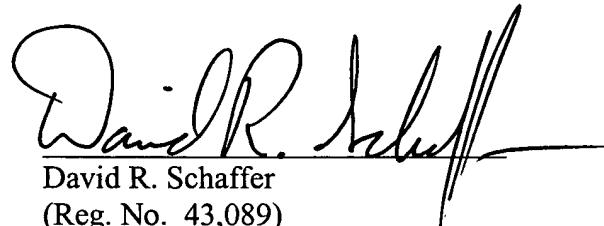
**CONCLUSION**

In view of the above amendments and remarks, the Applicants respectfully submit that the present case is in condition for allowance and respectfully requests that the Examiner issue a notice of allowance.

The Office is hereby authorized to charge any fees determined to be necessary under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Kenyon & Kenyon  
**Deposit Account No. 11-0600.**

The Examiner is invited to contact the undersigned at (202) 220-4263 to discuss any matter concerning this application.

Respectfully submitted,



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